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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9
10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 JOSHUA A. MARTINEZ,

14 Defendant.
15

Case No. 2:21-cr-00219-APG-DJA

**STIPULATION TO CONTINUE
TRIAL DATES**
(Sixth Request)

16 IT IS HEREBY STIPULATED AND AGREED, by and between Jason M. Frierson,
17 United States Attorney, and Daniel Schiess, Assistant United States Attorney, counsel for the
18 United States of America, and Rene L. Valladares, Federal Public Defender, and Joanne L.
19 Diamond, Assistant Federal Public Defender, counsel for Joshua Martinez, that the calendar
20 call currently scheduled for April 18, 2023 at 9:00 a.m., and the trial scheduled for April 24,
21 2023 at 9:00 a.m., be vacated and set to a date and time convenient to this Court. Based on the
22 parties' schedules and the schedules of their experts, the parties request a trial date in September
23 2023.

24 The Stipulation is entered into for the following reasons:

25 1. Counsel for the government is set to go to trial in another case on the currently
26 scheduled trial date.

2. In addition, defendant's motion to suppress (ECF No. 36) and motion to dismiss (ECF No. 39) remain pending. The outcome of either motion could alleviate the need for a trial. The outcome of the motion to suppress will also impact Mr. Martinez's theory of defense. Thus, defense counsel requires additional time to prepare for trial after the motion to suppress is decided.

3. The parties are asking for a September trial date to best accommodate their trial and foreign vacation schedules, as well as the schedules of their experts.

4. The defendant is out of custody and does not object to the continuance.

5. The parties agree to the continuance.

6. The additional time requested is not sought for purposes of delay.

7. Additionally, denial of this request for continuance could result in a miscarriage of justice. The additional time requested by this Stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code, Section 3161(h)(7)(B)(i), (iv).

This is the sixth stipulation to continue filed herein.

DATED: March 8, 2023.

RENE L. VALLADARES
Federal Public Defender

JASON M. FRIERSON
United States Attorney

By /s/ Joanne L. Diamond

By /s/ Daniel Schiess

JOANNE L. DIAMOND
Assistant Federal Public Defender

DANIEL SCHIESS
Assistant United States Attorney

1 **UNITED STATES DISTRICT COURT**

2 **DISTRICT OF NEVADA**

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 JOSHUA A. MARTINEZ,

7 Defendant.

Case No. 2:21-cr-00219-APG-DJA

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

9
10 **FINDINGS OF FACT**

11 Based on the pending Stipulation of counsel, and good cause appearing therefore, the
12 Court finds that:

13 1. Counsel for the government is set to go to trial in another case on the currently
14 scheduled trial date.

15 2. In addition, defendant's motion to suppress (ECF No. 36) and motion to dismiss
16 (ECF No. 39) remain pending. The outcome of either motion could alleviate the need for a trial.
17 The outcome of the motion to suppress will also impact Mr. Martinez's theory of defense. Thus,
18 defense counsel requires additional time to prepare for trial after the motion to suppress is
19 decided.

20 3. The parties are asking for a September trial date to best accommodate their trial
21 and foreign vacation schedules, as well as the schedules of their experts.

22 4. The defendant is out of custody and does not object to the continuance.

23 5. The parties agree to the continuance

24 6. The additional time requested is not sought for purposes of delay.

25 7. Additionally, denial of this request for continuance could result in a miscarriage
26 of justice. The additional time requested by this Stipulation is excludable in computing the time

1 within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United
 2 States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code,
 3 Section 3161(h)(7)(B)(i), (iv).

4 **CONCLUSIONS OF LAW**

5 The ends of justice served by granting said continuance outweigh the best interest of the
 6 public and the defendant in a speedy trial, since the failure to grant said continuance would be
 7 likely to result in a miscarriage of justice, would deny the parties herein sufficient time and the
 8 opportunity to effectively and thoroughly prepare for trial, taking into account the exercise of
 9 due diligence.

10 The continuance sought herein is excludable under the Speedy Trial Act, Title 18,
 11 United States Code, Section § 3161 (h)(7)(A), when the considering the factors under Title 18,
 12 United States Code, § 3161(h)(7)(B)(i), (iv).

13 **ORDER**

14 IT IS THEREFORE ORDERED that trial briefs, proposed voir dire questions, proposed
 15 jury instructions, and a list of the Government's prospective witnesses must be electronically
 16 submitted to the Court by the 5th day of September, 2023, by the hour of 12:00 p.m.

17 IT IS FURTHER ORDERED that the calendar call currently scheduled for April 18,
 18 2023, at the hour of 9:00 a.m., be vacated and continued to September 5, 2023 at the hour of
 19 9:00 a.m.; and the trial currently scheduled for April 24, 2023, at the hour of 9:00 a.m., be
 20 vacated and continued to September 11, 2023 at the hour of 9:00 a.m. in Courtroom 6C.

21 DATED this 9th day of March, 2023.

22 

23 UNITED STATES DISTRICT JUDGE